



DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

[CBP Dec. 22-18]

RIN 1651-AB49

Period of Admission and Extensions of Stay for Representatives of Foreign Information Media Seeking to Enter the United States

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This rule amends Department of Homeland Security (DHS) regulations to better facilitate the U.S. Government's ability to achieve greater reciprocity between the United States and the People's Republic of China (PRC) relative to the treatment of representatives of foreign information media of the respective countries seeking entry into the other country. For entry into the United States, such foreign nationals would seek to be admitted in I nonimmigrant status as bona fide representatives of foreign information media. Currently, foreign nationals who present a passport issued by the PRC, with the exception of Hong Kong Special Administrative Region (SAR) or Macau SAR passport holders, may be admitted in or otherwise granted I nonimmigrant status until the activities or assignments consistent with the I classification are completed, not to exceed 90 days. This rule amends the DHS regulations to remove the set period of stay of up to 90 days and to allow the Secretary of Homeland Security (Secretary) to determine the maximum period of stay, no longer than one year, for PRC I visa holders, taking into account certain factors. This rule also announces the Secretary has determined the maximum period of stay for which a noncitizen who presents a passport issued by the PRC (other than a Hong Kong SAR passport or a Macau SAR passport) may be admitted in or otherwise granted I nonimmigrant status is one year.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Legal Authority

The Secretary of Homeland Security (Secretary) has broad authority to administer and enforce the immigration and naturalization laws of the United States. *See* section 103(a)(1) of the Immigration and Nationality Act of 1952 (Pub. L. 82-414, 66 Stat. 163), as amended (8 U.S.C. 1103(a)(1)) (INA); *see also* 6 U.S.C. 202. The Secretary is authorized to establish such regulations as he or she deems necessary to carry out this authority under the immigration laws. *See* INA 103(a)(3) (8 U.S.C. 1103(a)(3)). Section 214(a)(1) of the INA specifically authorizes the Secretary to prescribe regulations specifying the period of admission, as well as any conditions, for the admission of nonimmigrants to the United States.¹ *See* 8 U.S.C. 1184(a)(1).

The Secretary has authorized the Commissioner of U.S. Customs and Border Protection (CBP) to enforce and administer the immigration laws relating to the inspection and admission of noncitizens² seeking admission to the United States, including the authority to make admissibility determinations and set the duration, terms, and conditions of admission. *See* Delegation Order 7010.3, II.B.5 (Revision No. 03.1,

¹*See also* sections 402, 1512, and 1517 of the Homeland Security Act of 2002 (Pub. L. 107-296, 116 Stat. 2142, 2187), as amended (6 U.S.C. 202, 552, and 557) (regarding transfer of authority to enforce immigration laws and prescribe regulations necessary to carry out that authority from the Attorney General to the Secretary).

² For purposes of this document, CBP uses terms such as “noncitizen” or “nonimmigrant” in place of the term “alien.” However, the INA and Department of Homeland Security (DHS) regulations continue to use the term “alien,” as defined by the INA.

Incorporating Change 1) (Nov. 25, 2019). U.S. Citizenship and Immigration Services (USCIS) is authorized to consider applications for a change of nonimmigrant status under section 248 of the INA, 8 U.S.C. 1258, including establishing the authorized period of stay in the new nonimmigrant status. *See* 6 U.S.C. 271(b); 8 CFR part 248. USCIS also is authorized to consider applications for an extension of stay in nonimmigrant status. *See* 6 U.S.C. 271(b); 8 CFR 214.1(c).

Section 101(a)(15)(I) of the INA establishes the I nonimmigrant classification for noncitizens wishing to visit the United States temporarily as representatives of foreign information media. The INA established the I visa category as: “a new class of nonimmigrants and is designed to facilitate, on a basis of reciprocity, the exchange of information among nations. It is intended that the class is to be limited to aliens who are accredited as members of the press, radio, film or other information media by their employer.” S. Rep. No. 82-1137 at 21 (1952); H.R. Rep. No. 1365 at 45 (1952).

In order to qualify as a nonimmigrant under the I classification, a noncitizen must be a bona fide representative of foreign press, radio, film or other foreign information media that has its home office in a foreign country, and must seek to enter the United States solely to engage in such employment. *See* INA 101(a)(15)(I) (8 U.S.C. 1101(a)(15)(I)). In addition, the statute expressly requires that such a visa or status be provided “upon a basis of reciprocity.” *Id.*; *see also* INA 214(a)(1) (providing that the admission of nonimmigrants to the United States “shall be for such time and under such conditions as the [Secretary] may by regulations prescribe”) (8 U.S.C. 1184(a)(1)).

B. Current Admission Process for I Visa Holders

Foreign nationals visiting the United States temporarily as representatives of information media must possess a nonimmigrant I visa for admission. INA 101(a)(15)(I), 212(a)(7)(B)(i)(II) (8 U.S.C. 1101(a)(15)(I), 1182(a)(7)(B)(i)(II)). In order to obtain an I visa, foreign travelers must apply for a visa with the U.S. Department of State and obtain

the visa prior to traveling to the United States. *Id.*; *see also* INA 221-222, 273(a) (8 U.S.C. 1201-1202, 1323(a)); 22 CFR 41.52, 41.101-41.122. An I visa holder seeking entry into the United States must appear at a port of entry and establish, to the satisfaction of the CBP officer, that he or she is admissible as an I nonimmigrant. *See* INA 235(a), (b)(2)(A), and 291 (8 U.S.C. 1225(a), (b)(2)(A), and 1361); 8 CFR 212.1, 235.1(f)(1); *see also* INA 221(h) (providing that issuance of a visa does not entitle the visa holder to admission to the United States). The noncitizen must also be otherwise admissible and not subject to other grounds of inadmissibility. *See generally* INA 212(a) (8 U.S.C. 1182(a)).

The CBP officer will inspect the noncitizen, including by reviewing the noncitizen's travel documents, collecting the noncitizen's biometric data (i.e., fingerprints and photograph), interviewing the noncitizen, and collecting any applicable forms or fees. INA 235(a) (8 U.S.C. 1225(a)); 8 CFR 235.1(f) and (h). Unless otherwise exempted, each arriving nonimmigrant who is admitted to the United States will be issued a Form I-94 as evidence of the terms of admission. *See* 8 CFR 1.4 and 235.1(h).³ The period of time that the noncitizen is authorized to remain in the United States is referred to as the "period of admission" or the "period of stay."

C. Current Period of Admission and Extensions of Stay for I Visa Holders

Prior to May 2020, the DHS regulation at 8 CFR 214.2(i) specified that an I visa holder, regardless of country of nationality, "may" be authorized admission for the duration of his or her employment. DHS and its predecessor, the Immigration and Naturalization Service (INS), had long interpreted the regulation as providing that I visa holders are authorized admission for the duration of status for an indefinite period, rather

³ The term "issuance" includes the creation of an electronic record of admission, or arrival/departure by DHS following an inspection performed by an immigration officer. *See* 8 CFR 1.4. In most cases, CBP issues the Form I-94 electronically. The traveler may retrieve it through a CBP website, <https://i94.cbp.dhs.gov>, or via the CBP One™ mobile application.

than for a set period of time. *See generally* Memorandum, INS Office of the General Counsel, Genco Op. No. 94-23, 1994 WL 1753127, at *3 (May 9, 1994) (“[R]epresentatives of information media are not currently restricted by statutory language to any temporary period. The regulations authorize their admission for ‘duration of status.’”). The term “duration of status” refers to the period of time in which a noncitizen continues to meet the terms and conditions of his or her admission, including that he or she remains employed with the same employer and uses the same information medium. 8 CFR 214.2(i)(1-1-20 Ed.). The regulation states that the admission requires that the noncitizen maintain the same information medium and employer until “he or she obtains permission” to change either. *Id.*

While an interpretation of the regulation requiring admission for an indefinite period of the duration of status is reasonable, it is also reasonable for DHS to interpret the regulation to allow DHS, in its discretion, to admit I visa holders for a set time period. In May 2020, DHS promulgated a final rule amending 8 CFR 214.2(i) to provide that the admission of I visa holders presenting passports issued by the People’s Republic of China (PRC), with the exception of Hong Kong Special Administrative Region (SAR) and Macau SAR passport holders, would no longer be for an indefinite period, but would instead be for a period not to exceed 90 days. *See Period of Admission and Extensions of Stay for Representatives of Foreign Information Media Seeking To Enter the United States*, 85 FR 27645, May 11, 2020 (May 2020 rule). That rule also provides that such I visa holders are permitted to seek subsequent extensions of stay, each one limited to no more than 90 days. The rule was promulgated by DHS, because DHS determined that admitting I visa holders from the PRC for an indefinite period was not sufficiently reciprocal to the PRC’s treatment of U.S. journalists or in alignment with U.S. foreign policy at that time.

D. Purpose and Summary

Since the promulgation of the May 2020 rule, DHS has determined that it should be more fluid in its approach to I visa holders from the PRC. The preamble of the May 2020 rule detailed how information received from the Department of State, as well as open source information, demonstrated a suppression of independent journalism in the PRC, including an increasing lack of transparency and consistency in the admission periods granted to foreign journalists, including U.S. journalists. According to the Foreign Correspondents' Club of China (FCCC), the PRC has forced out at least 27 reporters since 2013, either through expulsion or by non-renewal of visas, including 18 foreign correspondents from U.S.-based news outlets, such as *The New York Times*, *The Wall Street Journal*, and *The Washington Post* in 2020.⁴

Further, concurrent with the May 2020 rule, the PRC Government publicly targeted foreign media, describing them as politically hostile and a threat to local stability. U.S. and other foreign journalists reported a series of online threats and uncensored amplification of their personal details on PRC social media platforms. Likewise, beginning in 2020, British and Australian journalists reported credible threats of targeted lawsuits and exit bans, forcing immediate and emergency moves to flee the PRC. In September 2020, the last two Australian reporters working for Australian media in the PRC left the country following an unprecedented diplomatic stand-off with PRC security forces. The PRC security forces had sought to impose a strict exit ban until the reporters answered questions about their ties to Cheng Lei, an Australian reporter working for PRC state media who was detained and held incommunicado since August 2020. Likewise, in March 2021, a BBC journalist fled the PRC amid intense, sustained, and targeted threats from the Chinese authorities. The BBC confirmed the reporter and

⁴ “Track, Trace, Expel: Reporting on China Amid a Pandemic: FCCC Report of Media Freedom in 2020,” available at <https://fccchina.org/wp-content/uploads/2022/01/2020-FCCC-Report.pdf?x69980> (2020 FCCC Report).

his team “faced surveillance, threats of legal action, obstruction and intimidation wherever they tried to film.”⁵

The 2020 FCCC Report further revealed that foreign journalists are receiving severely shortened visa admission periods and reporting credentials, one for just two and a half months. Moreover, the 2020 FCCC Report stated that foreign journalists applying for visa renewals face numerous challenges, with a record number of at least 12 correspondents receiving visas of six months or less. One out of six correspondents reported being forced to use a series of short visas of between one and three months in duration so that they could live and work in China; the typical duration of PRC-issued credentials is 12 months.

There remains little transparency on visa issuances and press credentials, as both are subject to change without notice and are often shortened or revoked in apparent retribution for journalists’ or their colleagues’ reporting efforts. In September 2020, the PRC issued new rules that confirmed that any reporter who left the PRC would have his or her visa immediately cancelled. Journalists would therefore be forced to reapply for new visas if they wanted to return.

Conditions for foreign journalists did not improve for most of 2021.⁶ In May 2021, the PRC’s Ministry of Foreign Affairs confirmed new visa rules for foreign correspondents, permitting all but U.S. reporters working for U.S. outlets to exit and return to China on their existing J visas, the PRC visa category for foreign journalists. U.S. citizens working for American media confirm that PRC Government authorities told them they would not be able to leave the PRC and expect to come back.

⁵ <https://www.bbc.com/news/world-asia-china-56586655>.

⁶ “2021 Locked Down or Kicked Out Covering China: FCCC Report of Media Freedom in 2021,” available at <https://fccchina.org/wp-content/uploads/2022/01/2021-FCCC-final.pdf?x69980> (2021 FCCC Report).

However, in November 2021, the PRC committed to a series of discrete actions that signal progress. The PRC committed to issue visas for a group of U.S. reporters, provided they are eligible under all applicable laws and regulations. The PRC also committed to increase visa validity for U.S. journalists to one year and to permit U.S. journalists already in the PRC to freely depart and return, which they had previously been unable to do. The United States also committed to increase visa validity for PRC journalists to one year and provide the same access and freedom of movement for PRC journalists in the United States. Both the PRC and the United States agreed to begin the process of extending duration of stay for each country's respective journalists.

Accordingly, DHS is issuing this rule to continue to address the actions of the PRC Government while seeking to enhance reciprocity in the treatment of U.S. journalists in the PRC. The current DHS regulations limit PRC journalists to initial stays of up to 90 days. DHS seeks to enhance reciprocity in a flexible and fluid manner, so instead of amending the regulations with a new specific set period of stay, DHS is amending the regulations to allow the Secretary to make a determination, considering certain enumerated factors, to set the maximum period of stay for PRC I visa holders, up to one year.

II. Discussion of Regulatory Changes

In order to effect the changes described above, DHS is amending 8 CFR 214.2(i). Paragraph (i)(1)(ii) is revised to remove the set period of stay of 90 days for those noncitizens who present a passport issued by the PRC (other than a Hong Kong SAR passport or a Macau SAR passport) and replace it with a maximum period of stay as determined by the Secretary, not to exceed one year. Additionally, paragraph (i)(1)(ii) is amended to provide that the Secretary may determine the maximum period of stay when the Secretary determines an adjustment is needed, with such maximum period to be no longer than one year. The revisions set forth the framework for that determination.

Namely, in determining the maximum period of stay and whether an adjustment is needed, the Secretary will consider factors including, but not limited to: the average authorized period of stay and press credential validity for U.S. journalists in the PRC; the treatment of U.S. journalists in the PRC; any input from the U.S. Department of State; and such other factors as may affect the U.S. interest. Such determination will be published as a notice in the *Federal Register* and will remain in effect until the Secretary publishes a new determination.

Consistent with the change regarding the initial period of stay for I nonimmigrants, this rule replaces the references to a set period of 90 days in the introductory text of paragraph (i)(2) regarding extension of stay and in paragraph (i)(3) addressing change of status with references to the maximum period of stay determined by the Secretary pursuant to paragraph (i)(1)(ii). DHS believes that the factors considered by the Secretary in setting the maximum period of stay for initial grants of I nonimmigrant status are also applicable to extensions, and that it is appropriate for the maximum extension period to match the maximum initial grant period in place at the time the extension request is adjudicated. The period of extensions thus reflects the most recent determination made by the Secretary, taking into account the most recent information available about reciprocity, treatment of U.S. journalists, and other relevant national interests.

In evaluating its approach to PRC I visa holders for this rule, DHS recognized that it should more clearly demonstrate how it is complying with international legal obligations regarding certain PRC I visa holders. These obligations include, but are not limited to, the United Nations Headquarters Agreement (UNHQA) and Organization of American States Headquarters Agreement (OASHQA). Section 11 of the UNHQA requires that the United States not impede transit to or from the United Nations headquarters district for members of certain covered classes, including UN-accredited

representatives of the press, or of radio, film or other information agencies (i.e., I visa holders). Section 12 clarifies that such obligations apply irrespective of bilateral relations, and Section 13 states that U.S. laws and regulations regarding the entry and residence of noncitizens shall not be applied in such a manner as to interfere with Section 11 privileges. Section 13(a) states that visas required for those covered under Section 11 be issued without charge and as promptly as possible. Article XV, Section 1 of the OASHQA requires that the United States take appropriate steps to facilitate transit to or from the OAS Headquarters of OAS-accredited representatives of the press or of radio, film, or other information agencies (i.e., I visa holders).

Thus, at the end of paragraph (i)(2)(ii), DHS adds that requests for extensions of stay will be adjudicated consistent with international legal obligations, including the UNHQA and OASHQA. DHS will continue to coordinate with the U.S. Department of State to ensure that USCIS has the discretion to grant extension requests for accredited journalists, consistent with international legal obligations, free of charge. In the event that assessment and vetting efforts identify serious concerns, DHS, prior to taking any action on extension applications for PRC I nonimmigrants covered under such agreements as the UNHQA and OASHQA, will coordinate with the Department of State in a timely manner over appropriate next steps.

Current paragraph (i)(4) provides for the transition from duration of status admission to a fixed admission period for noncitizens with I status who had presented a passport issued by the PRC (that is not a Hong Kong SAR passport or a Macau SAR passport) at the time of admission and who were present in the United States on May 8, 2020, when the May 2020 rule took effect. This provision is no longer necessary, and this rule replaces that provision in paragraph (i)(4) with a provision detailing the applicable maximum period of stay for those noncitizens who have pending applications for extension of stay or change in status when a change in the maximum period of stay

occurs. Specifically, revised paragraph (i)(4) sets forth that any change in the maximum period of stay announced by a *Federal Register* notice pursuant to paragraph (i)(1)(ii) applies to applications for an extension of stay or a change of status, filed under paragraphs (i)(2) and (i)(3) respectively, which are pending with USCIS on the effective date of the *Federal Register* notice. In other words, the maximum period of stay that is in effect when an application for an extension of stay or a change of status is adjudicated is the maximum period of stay that will apply to said petition. For example, DHS would publish a *Federal Register* Notice saying that it is changing the maximum period of stay from 1 year to 6 months, and the effective date would be February 28, 2024. In such a case, when an application for extension of stay is filed on February 1, 2024, but that application is still pending on February 28, 2024, the maximum period of stay USCIS can give is 6 months if that extension of stay is approved on February 28, 2024 (or later).

This rule does not contain any substantive changes to the admission or duration of status period of stay provisions currently applicable to I visa holders from any country other than the PRC.

III. Maximum Period of Stay Determined by the Secretary

The PRC has taken positive action with respect to allowing U.S. media access since late 2021. PRC authorities have issued visas for all U.S. reporters for which the Department of State requested such documents in November 2021. These issuances will have a substantial impact on bolstering critical and independent news coverage in the PRC, and arrival of these individuals will represent a 30 percent increase in the total number of U.S. journalists in the country. In another sign of progress, the PRC has expedited the issuance of re-entry visas for U.S. reporters in China so that they may freely depart and return. These actions reflect a renewed effort on the part of the PRC to improve media reciprocity and working conditions for U.S. reporters in China. Although such conditions remain far from fully satisfactory, increasing the period of stay for PRC

journalists in the United States from 90 days to a year through this rule will serve to maintain momentum on continuing efforts to improve U.S. media access to the PRC.

Accordingly, pursuant to 8 CFR 214.2(i)(1)(ii) as amended by this final rule, the Secretary of Homeland Security has determined that the maximum period of stay for which a noncitizen who presents a passport issued by the PRC (other than a Hong Kong SAR passport or a Macau SAR passport) may be admitted in or otherwise granted I nonimmigrant status is one year, effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

IV. Statutory and Regulatory Review

A. Administrative Procedure Act

The Administrative Procedure Act (APA) generally requires agencies to publish notice of a proposed rulemaking in the *Federal Register* for a period of public comment and to delay the effective date of the final rule. However, rules that involve a foreign affairs function of the United States are excluded from the rulemaking provisions of the APA. *See* 5 U.S.C. 553(a)(1). For the reasons discussed below, this rule involves a foreign affairs function of the United States. DHS, after consultation with the Department of State, is adopting this rule to respond more flexibly and fluidly to the actions of the PRC Government regarding the duration of admission for media representatives from the PRC, with the exception of Hong Kong SAR or Macau SAR passport holders.

In order to obtain an I visa and be admitted to the United States, a representative of foreign information media must be a national of a country that grants similar privileges to representatives of media from the United States. *See* 8 U.S.C. 1101(a)(15)(I) (providing that I nonimmigrant visas may be issued “upon a basis of reciprocity”). One such country is the PRC. Among other things, the PRC has committed to begin the process of extending duration of stay for U.S. journalists. Such acts demonstrate that the

PRC is willing to grant similar privileges to U.S. media representatives as those granted to members of the Chinese media in the United States. Accordingly, this rule encompasses diplomatic relations with the PRC regarding the authorized terms and conditions of admission of representatives of radio, film or other information media as they perform such functions abroad. The U.S. Court of Appeals for the Second Circuit, in *City of New York v. Permanent Mission of India to United Nations*, made clear that regulation of the reciprocal treatment to be afforded to representatives of foreign nations in the United States “relates directly to, and has clear consequences for, foreign affairs.” 618 F.3d 172, 201 (2d Cir. 2010). More recently, the United States District Court for the District of Columbia found that “to be covered by the foreign affairs function exception, a rule must clearly and directly involve activities or actions characteristic to the conduct of international relations.” *E.B. et al. v. U.S. Dep’t of State et al.*, Civ. Action No. 19-2856, Mem. Op. at 8 (D.D.C. Feb. 4, 2022), *available at* https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2019cv2856-50. This rule clearly and directly involves the conduct of foreign affairs and the commitments that the United States and another specific nation-state, the PRC, have made or may make to each other regarding foreign media representatives.

Any diplomatic negotiations between the United States and the PRC as to the reciprocal treatment of foreign media representatives will be more effective in ensuring full and fair access for U.S. journalists and less disruptive to long-term relations the sooner this final rule is in place. *See Rajah v. Mukasey*, 544 F.3d 427, 438 (2d Cir. 2008) (finding that the notice and comment process can be “slow and cumbersome,” which can negatively affect efforts to secure U.S. national interests, thereby justifying application of the foreign affairs exemption). Furthermore, notice and comment procedures prior to the effective date of this rule would disrupt the Executive Branch’s foreign policy with respect to the PRC and erode the sovereign authority of the United States to pursue the

strategy it deems to be most appropriate as it engages with foreign nations. *See Am. Ass'n of Exps. & Imps.-Textile & Apparel Grp. v. United States*, 751 F.2d 1239, 1249 (Fed. Cir. 1985) (noting that the foreign affairs exception covers agency actions “linked intimately with the Government's overall political agenda concerning relations with another country”).

B. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Rules involving the foreign affairs function of the United States are exempt from the requirements of Executive Orders 12866 and 13563. This final rule advances the President’s foreign policy goals, as they affect a specific bilateral relationship and as the rule has an expressed goal of enhancing parity in the relationship of the United States with a specific nation-state. The Office of Information and Regulatory Affairs has confirmed that this rule is not subject to the analytical requirements of Executive Orders 12866 and 13563, due to the foreign affairs exception described above. However, DHS has nevertheless reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in those Executive Orders.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (i.e., small businesses, small organizations,

and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), enacted as Public Law 104-4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year. *See* 2 U.S.C. 1532(a). This rule will not result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3507(d)) requires that DHS consider the impact of paperwork and other information collection burdens imposed on the public. This rule does not impose any new requirements subject to the PRA.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens.

Regulatory Amendments

For the reasons stated in the preamble, DHS is amending 8 CFR part 214 as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 is revised to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301-1305, 1356, 1357, and 1372; section 643, Pub. L. 104-208,

110 Stat. 3009-708; Pub. L. 106-386, 114 Stat. 1477-1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115-218, 132 Stat. 1547 (48 U.S.C. 1806).

2. Amend § 214.2 by:

a. Revising paragraph (i)(1)(ii);

b. In paragraph (i)(2) introductory text removing the text “90 days” and adding in its place the text “the maximum period of stay determined by the Secretary pursuant to paragraph (i)(1)(ii) of this section”;

c. Adding a sentence at the end of paragraph (i)(2)(ii);

d. In paragraph (i)(3), removing the text “90 days” and adding in its place the text “the maximum period of stay determined by the Secretary pursuant to paragraph (i)(1)(ii) of this section”; and

e. Revising paragraph (i)(4).

The addition and revisions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(i) * * *

(1) * * *

(ii) In the case of an alien who presents a passport issued by the People’s Republic of China (PRC) (other than a Hong Kong Special Administrative Region passport or a Macau Special Administrative Region passport), until the activities or assignments consistent with the I classification are completed, not to exceed the maximum period of stay as determined by the Secretary. The Secretary of Homeland

Security may determine the maximum period of stay when the Secretary determines an adjustment is needed, with such maximum period to be no longer than one year. In determining the maximum period of stay and whether an adjustment is needed, the Secretary will consider factors including, but not limited to, the average authorized period of stay and press credential validity for U.S. journalists in the PRC, the treatment of U.S. journalists in the PRC, any input from the U.S. Department of State, and such other factors as may affect the U.S. interest. Such determination will be published in the *Federal Register* as a notice and will remain in effect until the Secretary of Homeland Security publishes a new determination under this.

* * * * *

(2) * * *

(ii) * * * Requests for extensions of stay will be adjudicated consistent with international legal obligations, including the United Nations Headquarters Agreement and Organization of American States Headquarters Agreement.

* * * * *

(4) *Applicable maximum period of stay.* Any change in the maximum period of stay announced by a *Federal Register* notice pursuant to paragraph (i)(1)(ii) of this section applies to applications for an extension of stay or a change of status, filed under paragraphs (i)(2) and (3) of this section respectively, that are pending with USCIS on the effective date of the *Federal Register* notice.

* * * * *

Alejandro N. Mayorkas,
Secretary of Homeland Security.

